THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 17533 of 2007

DATED: 12-10-2007

Between:-

Sri Lakshmi Nrusimha Lime Manufacturing Industrial Cooperative Society Ltd., represented by its President B. Anji Reddy.

..PETITIONER

And

The Commissioner of Industries, Govt. of A.P. Chirag Ali Lane, Hyderabad and 2 others.

..RESPONDENTS

THE HONOURABLE SRI JUSTICE P.S. NARAYANA

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W.P. NO. 17533 of 2007

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O R D E R

This Court ordered Notice Before Admission on 20-08-2007. Counter affidavit was filed by respondents 1 and 2.

2. Heard the counsel on record.

3. The writ petition is filed for a Writ of Mandamus directing the 2nd respondent to recommend to the 3rd respondent for supply of coal at the rate of 230 MTs per month as per Memo No. 11-3-5-0006 dated 21.02.2007 issued by the 1st respondent by declaring the inaction of the 2nd respondent as illegal and void and consequently direct the 3rd respondent to supply the coal to the petitioner unit and pass such other appropriate orders.

3. It is stated by the petitioner that it is a society registered as a Cooperative Society with effect from 26-2-1982 and it has 11 members and the main object of the society is manufacture of lime, improvement of economic condition of the workers of the lime industry and the area of the operation of the society is Mangalagiri, Tadepalli, Atmakur, Vippatam and its registered office is situated at Atmakur village, Mangalagiri Mandal, Guntur District.

4. It is also stated that the society was registered as a small-scale industrial unit by the 2nd respondent under the Department of Industries and was allotted registered No. 01-07-06068 PMT dated 30.03.1988 for the purpose of manufacture of lime and the permanent registration certificate is revalidated upto 29-03-2008 and the unit was

also registered with the Department of Mines and Geology, Guntur for a period of 5 years from 10-11-2004 to 09-11-2009. It is stated that the unit requires coal for its manufacturing purpose and it is being supplied by the 3rd respondent on the recommendation of respondents 1 and 2 and while the unit was working, the registration was suspended in 2002 for taking certain steps of correction to the manufacturing unit and accordingly the required staircase was constructed and after construction the unit was inspected by the 2nd respondent on 1-10-2003 and was found to be fit for working condition and consequently the unit was re-registered and the permanent registration certificate was restored.

5. It is further stated that while so, the 2nd respondent on the application of the petitioner recommended for restoration of coal supplies at the rate of dd230 MTs per month on regular basis and on the basis of the recommendation of the 2nd respondent, the 1st respondent issued a letter dated 19-11-2003 to the 3rd respondent for restoration of coal supplies of 230 MTs per month on *ad hoc* basis for a period of six months to the unit and consequently the 3rd respondent restored the supply of coal vide letter dated 02-12-2003 and thereafter in spite of several requests, the respondents have not restored the coal supply nor recommended for supply of coal and that recently the 1st respondent issued a memo dated 21-02-2007 delegating the powers of recommendation for the supply of coal to the industries upto limit of 250 MTs per month directly to the 3rd respondent duly following the rules and regulations in vogue and consequently the petitioner submitted a representation to the 1st respondent with a copy to the 2nd respondent on 16-03-2007 and 16-04-2007, but there was no response from the respondents. It is further stated that in spite of several representations and requests, the respondents have not been supplying coal and if the 2nd respondent does not recommend for supply of coal to the petitioner unit,

the livelihood of 11 workers, who are dependent on the unit would be in grave danger. In such circumstances, the petitioner approached this Court praying for appropriate relief.

6. In the counter affidavit filed, it is stated that Sri B. Anji Reddy was the President of Sri Lakshmi Narasimha Lime Manufacturing Co-op. Society Limited and the term of the President was upto 23-1-2007 and the elections to the Industrial Co-op. Societies could not be taken place thereafter the unit was not functioning. It is also stated that the unit has been registered as Co-op. Society w.e.f. 26-2-1982 and the area of the operation of the society is Mangalagiri, Tadepalli, Atmakur, Vippatam and there is no executive body in force as the election could not be conducted.

7. It is further stated that the Industries Department had registered this unit as SSI and issued PMT SSI Regd. No. 01/07/06068/PMT/SSI dated 30.03.1988 with the line of activity of Burnt Lime and revalidated upto 29.3.1998 and the SSI registration of the unit was suspended due to unfit for firing since there is no staircase and after rectification of the defect the unit was re-registered basing on the instructions of the Commissioner of Industries, A.P. Hyderabad.

8. It is further stated that the unit has been recommended for allotment of Coal at 230 MTs per month on regular basis (including earlier quota of 70 MTs per month) vide Letter dated 27-03-1998 of the 1st respondent addressed to the Vice chairman and M.D. M/s. SCCL. Hyderabad and the coal supplies has been suspended to the unit in the year 2002 since the unit was not working at the time of inspection there is no staircase to the unit which is essential and hence recommended to the C.O.L. for stoppage of coal supplies to the unit vide letter dated 5.2.2002 of 2nd respondent.

9. It is further stated that on 28-10-2003 the President of the society requested the 2nd respondent for restoration and allotment of coal, since the unit is working and on 8-11-2003 the 2nd respondent along with

I.P.O. inspected the unit and found that the unit is fit for firing and recommended for restoration of coal supplies i.e. 230 MTs per month on regular basis to the unit and the application of the unit has been placed in D.I.P.C. meeting held on 12.11.2003 and obtained the approval of the committee for restoration of coal after duly verifying all the records.

10. It is further stated that on the recommendation of the 1st respondent, the 3rd respondent had allotted 230 MTs of coal per month on ad hoc basis for a period of six months and the same was drawn by the unit holder and the unit holder had not yet submitted utilization certificate for the coal supplied from the 3rd respondent, that in the Memo dated 21.2.2007 the 1st respondent had issued instructions that the Industries which already have a fixed MPQ of coal and are not lifting the coal due to various reasons, the coal allotment may be renewed on verification that the unit is a functioning unit and the General Managers of the District Industries Centers shall also be permitted to recommend the coal supplies to the Industries upto a limit of 250 MTs per month directly to the 3rd respondent.

11. It is further stated that on 16-3-2007 the unit holder had represented the 1st respondent for restoration of coal to their unit under copy marked to the 2nd respondent and the 2nd respondent had acted on the representation of the unit holder addressed to the 1st respondent and verified the office records and found that there are no utilization certificates submitted by the unit holder i.e. for the last six months coal drawals and moreover the unit was inspected by the officers of the District Industries Centre and found that the unit is not working and it is located in between residential houses and that the unit holder had not furnished the clearance certificate from APPCB as required under Memo dated 18.10.2004. Under these circumstances and present existing lime kiln situated in residential area and nearer to Z.P. High School, the restoration

of coal supply could not be possible and hence the application of the unit was returned and informed the same to the unit holder.

12. These are the respective stands taken by the parties.

13. In the light of the clear specific stand taken in paras 6, 7 and 8 of the counter affidavit in particular, since the reasons had been explained in detail, this Court is of the considered opinion that at present the petitioner is not entitled to any relief whatsoever.

14. In the light of the same, the writ petition is dismissed. No order as to costs.

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P.S. NARAYANA, J

Dated: 12-10-2007
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